

UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEW HAMPSHIRE

United States of America

v.

Criminal No. 05-cr-254-JD

FNU LNU a/k/a Jimmy Oshunkey

PROCEDURAL ORDER

Defendant FNU LNU's court appointed counsel, R. Brian Snow, moves to clarify his appointment as a substitute counsel replacing the defendant's previous court appointed counsel. Specifically, Snow inquires as to "the nature and extent of the scope of his representation" in advance of the sentencing hearing scheduled for November 28, 2006. Snow states that the defendant has indicated that his previous counsel deprived him of effective assistance of counsel at trial. Snow's motion appears to request guidance from the court as to whether he should raise that issue presently. The government has not objected to the motion to clarify.

The court grants the motion and instructs Snow that no special limitations have been placed upon the scope of his representation of the defendant. The court directs Snow to Fed. R. Crim. P. 33 (concerning the procedure and timing for filing a motion for a new trial) and United States v. Osorio-Peña, 247 F.3d 14 (1st Cir. 2001) (clarifying the use of Rule 33 to assert

an ineffective assistance of counsel claim and the ability of the federal appellate courts to hear ineffective assistance of counsel claims on direct appeal). The court takes no position as to the how the defendant should proceed. Counsel will carefully consider all of the defendant's options and proceed in his best interests.

Conclusion

The defendant's motion to clarify the appointment of counsel (document no. 39) is granted.

SO ORDERED.


Joseph A. DiClerico, Jr.
United States District Judge

November 8, 2006

cc: R. Brian Snow, Esquire
Alfred J.T. Rubega, Esquire